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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,334	12/30/2003	Paul L. Hickman	59147-8002.US02	7600
22918	7590	01/27/2005	EXAMINER	
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			RICHMAN, GLENN E	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,334

Applicant(s)

HICKMAN, PAUL L.

Examiner

Glenn Richman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 3, 5, 9, 15-17, are rejected under 35 U.S.C. 102(e) as being anticipated by Macri et al.

Macri et al disclose a visual display (204), and at least one of vocal instruction, comment and encouragement of a visual personal trainer associated with the exercise experience of said user (col. 3, lines 39-52).

As for claims 2, 3, 5, 9, 15-17, Macri et al one of a plurality of exercise apparatus each of which is in part time communication with a computer via a network coupling said plurality of exercise apparatus to said computer (col. 3, lines 17-30), a server in part time communication with said computer (col. 3, lines 17-30), the changing of an operating parameter of said exercise apparatus in a way that is associated with at least one of said vocal instruction, comment and encouragement of said virtual personal trainer (col. 3, lines 17-30), establishing a communication linkage including an Internet link between said exercise apparatus and a remote system (col. 3, lines 17-30), said exercise experience includes a changing of an operating parameter of said exercise

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apparatus in relation to said at least one of vocal instruction, comment and encouragement of said virtual personal trainer (col. 5, lines 36-49).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 8, 9, 15, 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Dyer et al.

Dyer et al disclose a visual display (col. 7, lines 1-6),, and at least one of vocal instruction, comment and encouragement of a visual personal trainer associated with the exercise experience of said user (col. 6, lines 1-6).

As for claims 2, 5, 8, 9, 15, 17 Dyer et al one of a plurality of exercise apparatus each of which is in part time communication with a computer via a network coupling said plurality of exercise apparatus to said computer (fig. 5), the changing of an operating parameter of said exercise apparatus in a way that is associated with at least one of said vocal instruction, comment and encouragement of said virtual personal trainer (col. 4, lines 18-35), a bicycle, a rowing machine, a step machine, a treadmill. and a resistance trainer (fig. 1), difficulty setting for said exercise apparatus trainer (col. 1, lines 52 – et seq.), said exercise experience includes a changing of an operating

parameter of said exercise apparatus in relation to said at least one of vocal instruction, comment and encouragement of said virtual personal trainer (col. 4, lines 18-35).

As for claims 18-22, Dyer et al further disclose a frame (fig. 1), a body-engaging member (fig. 1), an actuator coupled between said frame and said body-engaging member (fig. 1), a visual display (166), and an audio display providing at least one of vocal instruction, comment and encouragement of a virtual personal trainer (col. 4, lines 18-35), an actuator controller coupled to said actuator (fig. 6), display images that are synchronized with said at least one of vocal instruction, comment and encouragement of said virtual personal trainer (col. 4, lines 18-35), said actuator controller is synchronized with at least one of said visual display and said audio display (col. 4, lines 18-35), control signals for at least one of said visual display, said audio display, and said actuator controller are at least temporarily digitally stored (fig. 9).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knecht et al disclose a step exercising system and method having vocal and visual instructions.

Lundin discloses a circuit training apparatus having vocal and visual instructions.


Redington et al disclose a training simulator having vocal and visual instructions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 703 308-3170. The examiner can normally be reached on Mon-Thurs.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn Richman
Primary Examiner
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